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8	The meys for complainam	
9	BEFORE THE BOARD OF REGISTERED NURSING	
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
11		12 511
12	In the Matter of the Accusation Against:	Case No. 2013-745
13	CHERYL DIANE HURST, AKA CHERYL HURST	
14	P.O. Box 72 Hickory, Mississippi 39332	ACCUSATION
15	Registered Nurse License No. 586802	·
16	Respondent.	·
17		
18	Louise R. Bailey, M.Ed., R.N. ("Complainant") alleges:	
19	<u>PARTIES</u>	
20	1. Complainant brings this Accusation solely in her official capacity as the Executive	
21	Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.	
22	Registered Nurse License	
23	2. On or about September 5, 2001, the Board issued Registered Nurse License	
24	Number 586802 to Cheryl Diane Hurst, also known as Cheryl Hurst ("Respondent"). The	
25	Registered Nurse License expired on April 30, 2011, and has not been renewed.	
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#### **JURISDICTION**

- 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.
- 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.
- 5. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued, or reinstated.

# STATUTORY PROVISIONS

6. Code section 2761 provides, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct, which includes, but is not limited to, the following:
- (4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.
- 7. Code section 2762 provides, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

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## **COST RECOVERY**

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

## 9. **DRUG**

"Methamphetamine" is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (d)(2), and a dangerous drug as designated by Code section 4022.

# FIRST CAUSE FOR DISCIPLINE

# (Out-of-State Discipline)

10. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a)(4), on the grounds of unprofessional conduct, in that on or about April 9, 2010, pursuant to a *Voluntary Surrender* and *Agreed Order* (attached hereto as **Exhibit A** and incorporated herein by reference), in a disciplinary proceeding entitled *In the Matter of Mississippi License*No. R-858334, issued to: Cheryl Hurst, the State of Mississippi Board of Nursing accepted the voluntary surrender of Respondent's license to practice nursing in the State of Mississippi. The basis of said discipline is that on or about February 24, 2010, Respondent was arrested for conspiracy to distribute a controlled substance and admitted to the Mississippi Board of Nursing that she uses Methamphetamine.

# SECOND CAUSE FOR DISCIPLINE

(Possessed and Self-Administered a Controlled Substance)

11. Respondent is subject to discipline under Code section 2761, subdivision (a), on the grounds of unprofessional conduct as defined in Code section 2762, subdivision (a), in that while a registered nurse, Respondent committed the following acts:

1	a. Respondent self-administered methamphetamine, a controlled substance and a	
2	dangerous drug.	
3	· · · · · · · · · · · · · · · · · · ·	
4	b. Respondent possessed methamphetamine, a controlled substance, in violation of Code	
5	section 4060.	
6	PRAYER	
7	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged	
8	and that following the hearing, the Board of Registered Nursing issue a decision:	
9	1. Revoking or suspending Registered Nurse License Number 586802, issued to	
10	Cheryl Diane Hurst, also known as Cheryl Hurst;	
11	2. Ordering Cheryl Diane Hurst, also known as Cheryl Hurst, to pay the Board of	
12	Registered Nursing the reasonable costs of the investigation and enforcement of this case,	
13	pursuant to Code section 125.3; and,	
14	3. Taking such other and further action as deemed necessary and proper.	
15		
16	DATED: March 13, 2013 How Ben- for LOUISE R. BAILEY, M.ED., R.N.	
17	LOUISE R. BAILEY, M.ED., R.N. Executive Officer Board of Registered Nursing	
18	State of California	
19	Complainant	
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# EXHIBIT A

Voluntary Surrender and Agreed Order
In the Matter of Mississippi License No. R-858334, issued to: Cheryl Hurst
State of Mississippi Board of Nursing

# STATE OF MISSISSIPPI BOARD OF NURSING

IN THE MATTER OF MISSISSIPPI LICENSE NO.R-858334, issued to:

\*

CHERYL HURST 10377 HWY 503 HICKORY, MS 39332 Respondent

\*

DOB: 03/14/1977

**VOLUNTARY SURRENDER** 

#### AGREED ORDER

WHEREAS, RESPONDENT, CHERYL HURST, had been vested with the right and privilege to practice nursing in the State of Mississippi by virtue of License No. R-858334issued by the Mississippi State Board of Nursing;

WHEREAS, RESPONDENT, CHERYL HURST, has consented to enter into an AGREED ORDER without the necessity of a disciplinary hearing by said Board;

#### IT IS, THEREFORE, STIPULATED AS FOLLOWS:

- 1. That this AGREED ORDER is entered into freely, willingly, and voluntarily by all parties, and further, such AGREED ORDER is entered into in lieu of having a full administrative hearing before the Mississippi Board of Nursing.
- 2. That RESPONDENT freely, willingly, and voluntarily waives any and all rights to an administrative hearing whereby she could:
  - (a) appear either personally or by counsel or both,
  - (b) produce witnesses or evidence in her behalf,
  - (c) cross-examine witnesses, and
  - (d) have subpoenas issued by the Board on her behalf.
- 3. That RESPONDENT has violated Miss. Code Ann. Section 73-15-29 (1) (k) in that RESPONDENT engaged in conduct likely to deceive, defraud or harm the public. Specifically,

On or about 02/24/2010 **RESPONDENT** was arrested for Conspiracy to Distribute a Controlled Substance in Lauderdale County, Mississippi. **RESPONDENT** admitted in her statement to the Board that she does occasionally use Methamphetamine and ICE.

- 4. That this AGREED ORDER shall be subject to approval by the Board. If the Board fails to approve the AGREED ORDER, it shall have no force or effect on the parties.
- 5. That it is understood and agreed that the purpose of this AGREED ORDER is to avoid a hearing before the Board. In this regard, RESPONDENT authorizes the Board to review and examine any documentary evidence or information concerning RESPONDENT prior to or in conjunction with its consideration of this AGREED ORDER.
- 6. That should the Board not accept the AGREED ORDER, the presentation to and consideration of this AGREED ORDER and the documentary evidence by the Board shall not unfairly or illegally prejudice the Board or any of its members from participation in hearings or proceedings pertaining to these or other matters regarding RESPONDENT.
- 7. That upon execution of this AGREED ORDER, RESPONDENT shall immediately be deemed to have voluntarily surrendered his license/privilege to practice nursing in the State of Mississippi. That RESPONDENT'S license shall be attached to this executed VOLUNTARY SURRENDER when submitted to the Board. RESPONDENT acknowledges that this surrender of his license/privilege to practice nursing shall have the same effect as a revocation of her license/privilege to practice nursing.
- 8. That this **VOLUNTARY SURRENDER** shall remain in effect for a MINIMUM of one (1) year from the date the Board of Nursing ratifies this AGREED ORDER.
- 9. That after one (1) year from the date the Board ratifies this AGREED ORDER, RESPONDENT shall be eligible to petition the Board for restoration. At that time, the Board in its discretion may deny the request, issue a restricted license/privilege, or grant full restoration of RESPONDENT'S nursing license/privilege.
- 10. That **RESPONDENT** agrees that should he petition the Board for restoration of his nursing license/privilege, the Board shall have access to his entire Board of Nursing investigative file.
- 11. That RESPONDENT does hereby fully, completely and finally release the Board of Nursing and its agents, servants, or employees from any and all claims, charges, demands, damages, costs, expenses, actions and causes of action of every kind and whatsoever nature which RESPONDENT may now or hereafter have which are in any manner whatsoever related to this AGREED ORDER between RESPONDENT and the Board of Nursing. The Mississippi Board of Nursing admits no liability of any kind and, in fact, specifically denies any and all liability in any way related to this AGREED ORDER.

12. That this document will be considered to be a public record entered as the final disposition of disciplinary proceedings presently pending against <b>RESPONDENT</b> and that this action shall be considered to be and may be recorded as a <b>FINAL ORDER</b> of the Board. This discipline will be reported to all federally mandated data banks and in accordance with the provisions of the Health Insurance Portability and Accountability Act of 1996, as amended.			
EXECUTED this the, day of, 2010.			
Subscribed and sworn to be fur with any presence, this the			
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APPROVED AND ACCEPTED by the MISSISSIPPI BOARD OF NURSING on this the day of , 2010.			
BOARD SEAL)  By:  G. Dwayne Self, KN, CRNA, President			
Subscribed and sworn to before me, in my presence, this the day of  The Miss 2010.  * (No most spec SEAT)  Commission Expires  May 23, 2014			